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8	BEFORE THE
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 2011-394
12	CAROLYN JANET SMITH ACCUSATION
13	9989 Cape May Street Las Vegas, NV 89141
14	Registered Nurse License No. 631668
15	Respondent.
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16 17	Complainant alleges
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17 18	Complainant alleges <u>PARTIES</u>
17 18 19	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
17 18 19 20	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
17 18 19 20 21	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.
17 18 19 20 21 22	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.  2. On or about January 30, 2004, the Board of Registered Nursing issued Registered
17 18 19 20 21 22 23	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.  2. On or about January 30, 2004, the Board of Registered Nursing issued Registered Nurse License No. 631668 to Carolyn Janet Smith (Respondent). The Registered Nursing
17 18 19 20 21 22 23 24	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.  2. On or about January 30, 2004, the Board of Registered Nursing issued Registered Nurse License No. 631668 to Carolyn Janet Smith (Respondent). The Registered Nursing License was in full force and effect at all times relevant to the charges brought in this accusation
17 18 19 20 21 22 23 24 25	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.  2. On or about January 30, 2004, the Board of Registered Nursing issued Registered Nurse License No. 631668 to Carolyn Janet Smith (Respondent). The Registered Nursing License was in full force and effect at all times relevant to the charges brought in this accusation and will expire on March 31, 2011, unless renewed.
17 18 19 20 21 22 23 24 25 26	Complainant alleges  PARTIES  1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.  2. On or about January 30, 2004, the Board of Registered Nursing issued Registered Nurse License No. 631668 to Carolyn Janet Smith (Respondent). The Registered Nursing License was in full force and effect at all times relevant to the charges brought in this accusation and will expire on March 31, 2011, unless renewed.  ///

### JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in relevant part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 118(b) of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

7. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

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## COST RECOVERY

8. Section 125.3 of the Code provides, in relevant part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## CAUSE FOR DISCIPLINE (Unprofessional Conduct – Out of State Discipline) (Bus. & Prof. Code §2761(a)(4))

- 9. Respondent has subjected her Registered Nursing License to disciplinary action under Code section 2761(a)(4) in that on or about October 20, 2009, in a disciplinary action before the Nevada State Board of Nursing (Nevada Board), the Nevada Board entered into an Agreement for Reprimand with Respondent. Based on the agreement, the Nevada Board issued a disciplinary decision on January 15, 2010, which ordered Respondent to be publicly reprimanded. The decision also ordered, as a condition of Respondent's licensure, that she successfully complete three nursing classes. The decision described the classes as "legal ethics in nursing for a minimum of 30 contact hours," the "Nevada Nurse Practice Act web based course," and "Professional Accountability and Legal Liability." The decision ordered Respondent to provide documentation of completion of these courses to the Nevada Board within six months.
- 10. The Nevada Board based its decision on Respondent's actions on or about June 30, 2009. Specifically, while Respondent was working as a Registered Nurse in the emergency room of a hospital, she inserted a urinary catheter on a patient after a physician instructed her not to insert the catheter. This incident, admitted by Respondent, constituted 1) "unprofessional conduct" and 2) "practicing beyond the scope" in violation of the Nevada Administrative Code.

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### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse Number 631668, issued to Carolyn Janet Smith;
- Ordering Carolyn Janet Smith to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: October 29, 2010

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affe

Department of Consumer Affairs

State of California Complainant

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